

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

**ANGELA ANDERSON, Personally,
and on behalf of the WRONGFUL DEATH BENEFICIARIES
of PRINCESS ANDERSON, Deceased**

PLAINTIFF

v.

No. 3:12-CV-92-DMB-SAA

**MARSHALL COUNTY, MISSISSIPPI, and
BAPTIST MEMORIAL HOSPITAL - DESOTO**

DEFENDANTS

**MEMORANDUM IN IN SUPPORT OF PLAINTIFF'S MOTION TO STRIKE CERTAIN
OPINIONS OF THOMAS FOWLKES, M.D.**

COMES NOW Plaintiff, by and through counsel, and for this her Memorandum in Support of the Motion to Strike Certain Opinions of Thomas Fowlkes, M.D., hereby sets forth the following:

1. Dr. Fowlkes is a graduate of the University of Tennessee Medical School. He did his residency at the University of Pittsburgh in emergency medicine. He worked in Memphis for three years as an emergency room physician and then moved to Oxford in 1996 and has practiced as an emergency room physician since that time. Until three years ago his experience in the medical field was exclusively in the area of emergency medicine. Now his experience includes the field of addiction medicine and correctional medicine. See deposition of Thomas Fowlkes, M. D. (attached hereto as Exhibit 1) at page 14, line 13 through page 15, line 13. In his practice dealing with correctional medicine he is responsible for outpatient healthcare only. See Exhibit 1, page 16, line 12-19. The last time Dr. Fowlkes worked in a hospital was in an emergency room setting in 2007 or 2008. His experience also includes working at the walk in urgent care clinic in Robinsonville, Mississippi. See Exhibit 1, page 18, line 16-24. Dr. Fowlkes is also is a certified medical review officer for drug and alcohol testing, which means that he can test drivers involved in accidents for the

Department of Transportation. Dr. Fowlkes does not have any training or experience in internal medicine or as a hospitalist. He does not have experience in treating patients who are actually admitted to the hospital (“inpatients”), he only sees them as outpatients, patients in the emergency room, or patients in a walk in clinic.

2. Dr. George Mangle is an internal medicine physician in this case who treats patients who have been admitted to the hospital, “inpatients.” In our particular case he treated Princess Anderson at Baptist Memorial Hospital in Union County. Dr. Mangle is a board certified internal medicine physician who received his DO degree from Des Moines University. He is in private practice and hospital medicine as well as clinic based medicine and recently started doing emergency room work at the VA Center in Memphis, Tennessee. See deposition of Dr. George Mangle (Exhibit 2), page 5, line 21 through page 7, line 8. After graduation Dr. Mangle did his residency at the University of Tennessee in Memphis and his residency was in the practice of internal medicine. See Exhibit 2, page 7, lines 9-16. At BMH-Union specifically, he was hired as a hospitalist and worked for them for about a year. See Exhibit 2, page 8, lines 9-14. In this case the physician in the emergency room consulted Dr. Mangle with regard to medical concerns that were not appropriate for treatment in an emergency room setting. See Exhibit 2, page 9, line 17 through page 10, line 7. In this case it is clear that Dr. Fowlkes’ practice and experience are limited to the emergency room, urgent care setting and outpatient setting. This is in contrast to physicians who treat inpatients that have been admitted to the hospital and require on-going care. Whereas Dr. Fowlkes certainly has the experience to analyze what emergency room physicians do, his experience should preclude him under the well known standards of Daubert from expressing opinions regarding the standard of care for patients once they leave the emergency room. Unlike Dr. Fowlkes, Dr. Mangle is the type of physician, board certified internal medicine physician working as a hospitalist at BMH-Union, who

is consulted by emergency room physicians (as was done in this case) with regard to inpatient care and treatment. Any criticisms by Dr. Fowlkes of the care provided to Princess Anderson on an inpatient setting basis, is without sufficient foundation and basis and should be struck.

WHEREFORE PREMISES CONSIDERED, Plaintiff requests this Court to strike those opinions of Dr. Fowlkes that deal with the inpatient treatment of the decedent Princess Anderson, together with such other relief as this Court may deem just and proper.

This, the 3rd day of April, 2014.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Daniel M. Czamanske, Jr., do hereby certify that I have this day electronically filed a true and correct copy of the above and foregoing document with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

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This, the 3rd day of April, 2014.

s/Daniel M. Czamanske, Jr.
DANIEL M. CZAMANSKE, JR.